



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 1 1989

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. R. C. Cronau
President
R.C. Cronau and Associates, Inc.
14189 Hiland Place
North Huntingdon, Pennsylvania 15642

Dear Mr. Cronau:

This is in response to your letter of August 21, 1989, requesting clarification of EPA's regulatory requirements for investigating and confirming suspected releases at underground storage tanks Systems. In your letter you cited two specific cases where a tight tank was required to be removed because it failed tank tightness tests. Your letter questioned whether these removals were required by the EPA regulations. They were not.

The specific requirement in 40 CFR 280.52(a)(1), which is for those UST system owners and operators who are using a second tightness test to confirm a suspected release, mandates that an UST system owner and operator must repair, replace or upgrade the UST system and begin corrective action in accordance with Subpart F if the test results for the system, tank or delivery piping indicate that a leak exists. Thus, in the EPA's requirements did not mandate tank removal but also allowed for tank repair or upgrading.

Your letter did not provide specifics about the type of tank and the particular site conditions (e.g. nearness to any public or private drinking water wells) so I cannot comment on which release investigation option was best suited to be followed at the site. However, one of the first corrective action steps required in Subpart F is to stop all confirmed leaks (280.61(b)) and immediately conduct a "site check" (280.62(a)(5)). Thus, in the case you cited, certainly removal of product from the tank and external monitoring of the excavation area were required by the regulations (in light of the fact that two tightness tests were failed): product removal to prevent possible further release into the environment, and external monitoring, such as a quick vapor survey of the surrounding excavation area to determine the extent of the release and the presence of any free product. If the above regulatory procedures were followed in both of your cited cases it is probable that product would not have been detected and the tanks would not have been pulled. If the tank was a fiberglass or protected tank the initial tightness testing results should have been questioned as suspect and external monitoring (the 280.52(b) site check option) could have straightened this out.

The EPA release reporting, investigation and confirmation regulations are flexibly written to enable owner and operator choices as well as the exercise of some discretion on the part of implementing agencies to suit the situation at hand. It is unfortunate that two faulty tightness tests led to the removal of tight tanks in Ohio. The federal requirements did not mandate removal unless repair or upgrading was impossible (as required under 280.52(a)), or the Implementing Agency decided that initial abatement measures and site check activities required under 280.62 necessitated tank removal.

The site investigation checklist you referred to in your letter is generally accurate, but only in as far as it goes. Steps 1-4 of the checklist apply only to tightness testing using an overfill-type test method. The use of level-measuring or acoustic methods, for example, would obviate the need for excavation down to the top of the tank because such methods do not involve overfilling the tank. Therefore, loose fittings on top of the tank could not be the cause of the failed test. (which is most often the cause of a failure using overfill-type methods). Also, using the site check alternative (280.32(b)), the procedure you provided would begin with step 5. As I mentioned earlier, tank repair or lining may be not allowed by the Implementing Agency if, in their judgement, tank removal is needed at a particular site to successfully conduct the corrective action/abatement and site characterization actions required under subpart F of the regulations.

I hope the above provides the clarification you seek about EPA's release confirmation requirements. I am sorry you were confused by the response you received from the RCRA/Superfund Hotline. Please also be advised that State UST regulatory programs are specifically allowed under the Federal law to be more stringent than EPA if they so choose, including in their requirements for investigating and confirming releases.

Sincerely,

David O'Brien, Chief,
Standards Branch

enclosure (incoming letter)